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|--------------------------------|-------------|----------------------|---------------------|------------------|
| 10/576,008                     | 04/14/2006  | Robert John Saunders | M03B302             | 8935             |
| 71134 7590 10/14/2009          |             |                      |                     |                  |
| Edwards Vacuum, Inc.           |             |                      |                     |                  |
| 2041 MISSION COLLEGE BOULEVARD |             |                      |                     |                  |
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| SANTA CLARA, CA 95054          |             |                      |                     |                  |
| EXAMINER                       |             |                      |                     |                  |
| TRAN, HANH VAN                 |             |                      |                     |                  |
| ART UNIT                       |             | PAPER NUMBER         |                     |                  |
| 3637                           |             |                      |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/576,008

**Applicant(s)**

SAUNDERS, ROBERT JOHN

**Examiner**

HANH V. TRAN

**Art Unit**

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This is the Final Office Action from the examiner in charge of this application in response to applicant's amendment dated 7/15/2009.

#### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the limitation in claim 5 of a "printed circuit board assembly" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5, since amended claim 1 recited "a pump control circuitry", the recitation in claim 5 of the enclosure further comprising "a printed circuit board assembly" renders the claim indefinite for failing to clearly define whether the circuit board assembly is the same or different from the control circuitry of claim 1. Clarification or correction is required. Please note that the Specification discloses the control circuitry typically comprising one or more printed circuit board assemblies.

***Claim Objections***

5. Claim 2 is objected to because of the following informalities: line 3, "pump control means" should be "pump control circuitry". Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical

Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1-8, 10-11 are rejected under 35 U.S.C. 102(e) as being anticipated by USP 6,705,105 to Wendt et al.

Wendt et al discloses an enclosure comprising all the elements recited in the above listed claims including a base 24, a cover 12, a plurality of pillars 26 detachably connected at one end thereof to the base and at the other end thereof to the cover, wherein at least one of the plurality of pillars comprises (such as shown in Fig 1-2 and 21) interconnected extrusions 42,150 defining therebetween a housing 148, a pump control circuitry 146 disposed in the housing (col. 7, lines 22-38), wherein the extrusions are formed from thermally conductive metal material, at least one of the extrusions is profiled to receive at least one pipe 22,22, wherein the extrusions comprise a plurality of apertures, and at least one corner pillar 42 having a substantially L-shaped extrusion providing an outer wall for the corner pillar.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-3, 7-8, 10-13, and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 4,062,983 to Roderick.

Roderick discloses an enclosure comprising all the elements recited in the above listed claims including a metal extrusion base 11, a cover 14, a plurality of pillars detachably connected at one end thereof to the base and at the other end thereof to the cover (Figs 1 and 4), wherein at least one of the plurality of pillars comprises (such as shown in Figs 7 and 8) interconnected extrusions 46,88,89 defining therebetween a housing, a pump control circuitry 94,95 (socket 94 and light bulb 95 together being defined as a control circuitry) disposed in the housing, wherein the extrusions are formed from thermally conductive metal material, wherein the extrusions comprise a plurality of apertures, and at least one corner pillar having a substantially L-shaped extrusion 46 providing an outer wall for the corner pillar, one of the extrusions comprising a plurality of projections 46e, wherein the base 11 comprising a plurality of interconnected metal extrusions.

10. Claims 1-3, 5-8, 10-12, 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 6,238,029 to Marzec et al.

Marzec et al discloses an enclosure comprising all the elements recited in the above listed claims including an extrusion metal base 16, a cover 14, a plurality of pillars 18,38 detachably connected at one end thereof to the base and at the other end thereof to the cover, wherein at least one of the plurality of pillars comprising interconnected metal extrusions defining therebetween a housing and a pump control circuitry 40/180 disposed in the housing (such as shown in Figs 11-12B), wherein the extrusions are formed from thermally conductive material to dissipate heat away from the pump control circuitry, one of the extrusions comprising a an outer wall including at

least one aperture for receiving connectors to the pump control circuitry located within the housing (Figs 11-12B), wherein the extrusions comprising a plurality of apertures 76, wherein the base extrusion is profiled to receive one or more electrical cables via opening 48.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

13. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marzec et al in view of USP 5,997,117 to Krietzman.

Marzec et al discloses all the elements as discussed above except for the extrusions are formed from aluminium.

Krietzman teaches the idea of having the pillars 23 of an enclosure formed from aluminum extrusions in order to provide a lightweight but strong structure. Therefore, it would have been obvious to modify the structure of Marzec et al by having the

extrusions formed from aluminium in order to providing a lightweight but strong structure, as taught by Krietzman, since both teach alternate conventional enclosure structure, used for the same intended purpose of housing articles therein, and classified in the same U.S. classification, thereby providing structure as claimed.

14. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marzec et al in view of USP 6,419,331 to Wei.

Marzec et al discloses all the elements as discussed above except for the base extrusion is profiled to receive a plurality of wheels for the enclosure.

Wei teaches the idea of providing the base of an enclosure with a plurality of wheels in order to facilitate movement of the enclosure from one location to another. Therefore, it would have been obvious to modify the structure of Marzec by providing the base of an enclosure with a plurality of wheels in order to facilitate movement of the enclosure from one location to another, as taught by Wei, since both teach alternate conventional enclosure structure, used for the same intended purpose of housing articles therein, and classified in the same U.S. classification, thereby providing structure as claimed.

#### ***Response to Arguments***

15. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.



***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Loving et al all shows structures similar to various elements of applicant's disclosure.

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **HANH V. TRAN** whose telephone number is (571)272-6868. The examiner can normally be reached on **Monday-Thursday**, and alternate **Friday**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT  
October 12, 2009

/Hanh V. Tran/  
Primary Examiner, Art Unit 3637